

REALIZING JUSTICE IN THE CRIMINAL JUSTICE BUDGET

The Department of Public Advocacy is faced with the on-going challenge of delivering quality indigent defense services to a larger number of clients than ever before. According to the Bureau of Justice Administration, a large majority of clients within the criminal justice system are mentally ill (54%) and/or addicted (60% to 70%). These facts make DPA's job even more challenging. The DPA 2006 Caseload Report shows that DPA represented 140,122 defender cases during the previous fiscal year, which is a 4.3% increase from FY 05. The challenge is for DPA's budget to keep up with the demands of an ever-growing caseload and clients with complex problems. The public safety interest of the Commonwealth as well as the efficient and just operation of the criminal justice system depends on it.

DPA believes that one of the black letter principles of an efficient and just criminal justice system is the need for parity. That is, that the criminal justice system operates best when there is adequate funding for the judiciary, the prosecution and defense functions. DPA has over time looked at the relative funding levels of different parts of the criminal justice system in order to ensure that Kentucky was committing sufficient funding to indigent defense. Over time, DPA has consistently received an inadequate share of the criminal justice budget. See, for example, the November 1997 issue of *The Advocate*, where a chart similar to the below demonstrated that at that time, DPA was receiving 3% of the criminal justice budget.

In comparing the budgets of agencies and departments within the criminal justice system, it is apparent that the funding allotment for the Justice Cabinet and criminal justice system¹ has grown significantly. While DPA's budget has also grown, it is not comparable with the overall growth of the criminal justice system. Since DPA has been consistently underfunded, this reflects the fact that DPA is falling behind the rest of the system.

Justice and Public Safety Cabinet (JPSC) General Fund Budget, Grew by 41% since FY 2000

The Kentucky Justice and Public Safety Cabinet (JPSC), with close to 8,000 employees, is the second largest agency in state government. It is the state entity responsible for criminal justice services encompassing law enforcement and training; prevention-education and treatment involving substance abuse; adult and juvenile incarceration; autopsies, death certifications and toxicology analyses; special investigations; paroling of eligible convicted felons; and long range planning on statewide criminal justice reform issues. (Justice Cabinet, 2006)

The Justice and Public Safety Cabinet was one of the three largest single areas of state dollar increases in the General Fund enacted appropriations from 2004-2006 Biennium to the 2006-2008 Biennium. The other largest single dollar increases were public education (K-12) human services and Medicaid (health) services. (*Money Matters: Two Year Budget*, KYA, May 2006).

The growth in the JPSC budget is driven by the increased number and cost of inmates in jails and prisons. Kentucky housed 2,838 inmates in 1970 compared to 20,465 inmates today. DOC estimates by the year 2014, Kentucky will have 31,057 inmates. (Robert Lawson, *Turning Jails into Prisons*, 2006) **The general fund budget allotment for JPSC increased by 41%** from the enacted FY 2000 budget to the enacted FY 2008 budget, according to *Money Matters: Two Year Budget*, KYA, May 2006. Compared to other states in 2005, Kentucky's prison population increase of 10.4 % led the nation. (Bureau of Justice Statistics, *Prisoners in 2005*, Nov. 2006)

Ironically, while the number of Kentuckians incarcerated has increased, the crime rate in Kentucky has remained constant. (Sentencing Project, 2006) Kentucky crime rate is below the national average at 2,783 per 100,000 compared to the national rate of 3,983 per 100,000.

Criminal Justice System Budget²

Overall Growth Since FY 2000 is 33 %

Criminal justice expenditures have increased across time in the Commonwealth of Kentucky. The growth appears to be accelerating with time. The criminal justice budget for FY 2000 was nearly \$810 million and for FY 2003 was \$937 million a 13.5 % increase in just three years. FY 2003 criminal justice spending was divided as follows:

Criminal Justice System FY 2003

Corrections	\$324,022,600	34.57%
Judiciary	\$200,368,100	21.38%
State Police	\$133,018,300	14.19%
Juvenile	\$115,105,100	12.28%
Prosecution	\$71,152,500	7.59%
Criminal Justice Trng.	\$41,777,100	4.46%
DPA	<u>\$28,219,300</u>	<u>3.01%</u>
Total	\$937,235,600	100.00%

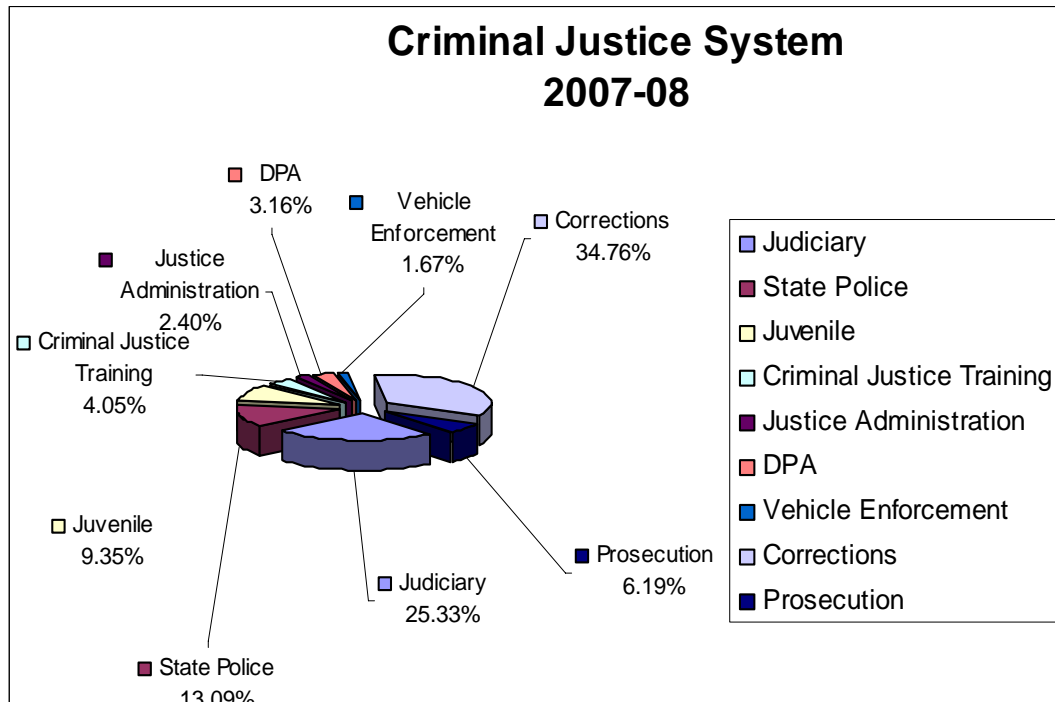
In more recent years, the criminal justice system budget growth is staggering. For FY 2008, the overall budget grew to \$1.2 billion dollars, a 28 % increase over the FY 2003 budget. The FY 2008 criminal justice enacted budget of \$1,201,471,700.00 is divided as follows:

Criminal Justice System FY 2008

Judiciary	\$304,300,800.00	25.33%
State Police	\$157,294,200.00	13.09%
Juvenile	\$112,344,900.00	9.35%
Criminal Justice Training	\$48,631,100.00	4.05%
Justice Administration	\$28,852,600.00	2.40%
DPA	\$38,005,300.00	3.16%
Vehicle Enforcement	\$20,087,200.00	1.67%
Corrections	\$417,615,800.00	34.76%
Prosecution	<u>\$74,339,800.00</u>	<u>6.19%</u>
Total Budget	\$1,201,471,700.00	100.00%

Given the trend of increased spending within the criminal justice budget, the capacity of the Commonwealth to also meet other growth budget needs is potentially impaired. Postsecondary funding rose by only 1.5 % for the fiscal year 2006-2007. It will increase 7.5% in 2007-08. (*Courier-Journal*, December 17, 2006) In addition, the K-12 education is generally recognized as under funded to fulfill the commitments of Kentucky Education Reform Act of 1990.

The Department of Public Advocacy makes up only 3.16 % of the total FY 2008 criminal justice system budget or \$38 million out of \$1.2 billion. This is only a slight increase from the 3.01 % in FY 2003 despite the 16.4 % growth in DPA caseloads during the same period.



**The Department of Public Advocacy's Average
General Fund Growth Since FY 2004 is 6.05 %**

Following the *Blue Ribbon Group*, DPA's budget increased. DPA's enacted appropriations increased from \$22.8 million in FY 2000 to \$27.4 million in FY 2002. However, subsequent to that increase the budget for the next biennium was constricted by the gloomy revenues of the state. Despite a documented need for \$5.7 in additional General Fund appropriation due to increased caseloads, DPA received a virtually flat-lined budget. As revenues recovered, Governor Fletcher and the legislature were able to meet the need for an additional appropriation because of steady caseload increases and put \$6.2 million in DPA's budget for FY06-FY08 biennium. This includes \$3.2 million in FY 2007 and \$3.0 million in FY 2008 allowing DPA to hire 36 lawyers, 14 support staff, and 3 social workers.

Department of Public Advocacy's Budget Growth % increase

FY '04	31,692,100	11.37%
FY '05	32,531,400	2.65%
FY '06	35,359,300	8.70%
FY '07	38,204,500	8.05%
FY '08	38,005,300	<u>-.05%</u>

6.05 % Average growth

The fact remains, DPA's overall funding has increased along with most all other criminal justice agencies, but not at a rate that is adequate given the caseload and incarceration predictions.

DPA believes in a balanced and adequately funded criminal justice system. Further, there is evidence that the public supports the parity of resources per case.³ A balanced criminal justice system includes an independent and fair judiciary, a reasonably funded prosecution function, and an adequately funded system of indigent defense. When any part of that system is under funded, problems may result that can impair the fairness of verdicts and dispositions. We must continue to challenge policy-makers to make certain our

criminal justice system is adequate and fair for all Kentuckians including those who cannot afford representation. Until then, justice will not be fully realized.

Endnotes:

1. Criminal justice system refers to those agencies and departments created by the Commonwealth to maintain social control, prevent crime, enforce laws and administer justice. The challenge, as in all forms of justice, is to create a balanced system that protects individuals in the pursuit of these ideals.
2. For the last decade, DPA has tracked the budgets of agencies and departments whose job is to administer justice. These include the Justice and Public Safety Cabinet, select line-items from the County Attorney's and Commonwealth's Attorney's Offices, all within the executive branch, and the Judiciary. For purpose of this analysis, DPA uses a conservative methodology and includes only DOC Corrections Management, DOC Adult Corrections, DOC Community Corrections and Jails. In addition to DOC, DPA includes JPSC Administration and Criminal Justice Training, Department of Juvenile Justice, Department of Vehicle Enforcement, Department of Kentucky State Police, Department of Criminal Justice Training, Department of Public Advocacy. Line items within the not directly related to the administration of justice are excluded.
3. 88% of the public polled by Belden Russonello & Stewart in 2002 believe "the quality of justice a person receives should not be determined by how much money a person has," and 88% support public defenders and prosecutors having "equal resources per case."